

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Whitney Beber	Team: Squad #2	CCRB Case #: 201703214	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 12/07/2016 7:20 PM	Location of Incident: [REDACTED]	Precinct: 52	18 Mo. SOL 6/7/2018	EO SOL 6/7/2018	
Date/Time CV Reported Fri, 04/14/2017 10:51 AM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Fri, 04/14/2017 10:51 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. LT Daniel Campbell	00000	932403	052 PCT
2. POM Juan Gomez	27475	953916	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Daniel Campbell	Abuse: Lieutenant Daniel Campbell stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	[REDACTED]
B.LT Daniel Campbell	Abuse: Lieutenant Daniel Campbell questioned § 87(2)(b)	[REDACTED]
C.LT Daniel Campbell	Abuse: Lieutenant Daniel Campbell questioned § 87(2)(b)	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

### Case Summary

On April 14, 2017, § 87(2)(b) filed the following complaint in person at the CCRB.

On December 7, 2016, at approximately 7:24 p.m. § 87(2)(b) was driving in the vicinity of § 87(2)(b) in the Bronx with his cousin, § 87(2)(b) in the front passenger's seat, when he noticed an unmarked gray Ford Fusion signal for him to stop with their lights and sirens. § 87(2)(b) stopped his vehicle. Lieutenant Daniel Campbell and Police Officer Juan Gomez from the 52<sup>nd</sup> Precinct approached § 87(2)(b)'s vehicle (**Allegation A**). The officers asked § 87(2)(b) for his license and registration. An officer asked § 87(2)(b) if he had any guns or anything illegal in the car (**Allegation B**). Another officer asked § 87(2)(b) about a bulge and asked if there were any firearms (**Allegation C**). § 87(2)(b) told the officers that he did not have any guns or anything illegal in the car. § 87(2)(b) was not issued a summons or arrested during this incident. § 87(4-b), § 87(2)(g)

§ 87(2)(b) filmed and provided a 3 minute and 52 second long video and a 30 second video of the incident. These videos are embedded below and attached to IA #'s 16 and 17 (Board Review 01 and 02).



201703214\_20170804\_1200\_DM.mp4



201703214\_20170809\_1516\_DM.mp4

### Mediation, Civil and Criminal Histories

- § 87(2)(b) was offered mediation at the conclusion of his interview at the CCRB on April 14, 2017. § 87(2)(b) declined to mediate his complaint without providing a reason.
- As per the New York City's Comptroller's Office no notice of claim regarding this incident has been filed as of July 12, 2017.
- § 87(2)(b)
- § 87(2)(b) does not have any prior convictions (Board Review 14).

### Civilian and Officer CCRB Histories

- § 87(2)(b)
- § 87(2)(b)
- Lieutenant Campbell has been a member of the NYPD for fourteen years. He has had seventy-two allegations within twenty-six complaints against him. Of those allegations, two were substantiated in two cases (see officer history). In case number 200607138, an allegation of a threat of arrest was substantiated and command discipline was

recommended. No disciplinary was taken. In case number 201004296 an allegation of a frisk was substantiated and charges were recommend. The ultimate disposition was Command Discipline B. § 87(2)(g)

- Police Officer Gomez has been a member of the NYPD for four years. He has had twenty-eight allegations within fourteen complaints against him. Of those allegations, none were substantiated (see officer history). § 87(2)(g)

## **Findings and Recommendations**

### **Explanation of Subject Officer Identification**

It is undisputed that Lieutenant Campbell was the supervising officer during this incident and that he spoke to and had a conversation with § 87(2)(b) therefore the stop and question allegations are only being pleaded against Lieutenant Campbell.

### **Allegation A –Abuse of Authority: Lieutenant Daniel Campbell stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

On April 14, 2017, § 87(2)(b) was interviewed at the CCRB. On July 11, 2017, § 87(2)(b) answered follow-up questions to his in-person statement over the telephone (Board Review 07). On April 26, 2017, and May 5, 2017, § 87(2)(b) provided telephone statements to the CCRB (Board Review 12 and 06). On May 17, 2017, Police Officer Edmundo Rivera of the 52<sup>nd</sup> Precinct and Lieutenant Campbell were interviewed at the CCRB. On June 13, 2017, Police Officer Gomez was interviewed at the CCRB. On June 22, 2017, Sergeant Charles Cavallaro of the 52<sup>nd</sup> Precinct was interviewed at the CCRB. On June 22, 2017, Police Officer Joel Ayala of the 52<sup>nd</sup> Precinct was interviewed at the CCRB.

It is undisputed that on December 7, 2016, Lieutenant Campbell pulled over a vehicle that § 87(2)(b) was driving with § 87(2)(b) in the front passenger seat and that, during the vehicle stop, officers asked whether § 87(2)(b) and § 87(2)(b) had any guns in the vehicle. It is undisputed that officers informed § 87(2)(b) that his vehicle was stopped for speeding, but no summons was issued to § 87(2)(b). It is undisputed that on October 20, 2016, approximately seven weeks before this incident, Lieutenant Campbell was involved in an arrest of § 87(2)(b) for possession of a firearm (Board Review 10). What remains in dispute is whether § 87(2)(b) was in fact speeding.

As per § 87(2)(b) he was driving no more than twenty-six miles per hour when the unmarked police vehicle stopped his vehicle. Lieutenant Campbell, whom he recognized as one of the officers from the prior arrest, and Police Officer Gomez approached § 87(2)(b)'s vehicle. An officer asked for § 87(2)(b)'s license and registration, which § 87(2)(b) provided. An officer informed § 87(2)(b) that he was speeding and asked if he had anything illegal in the car. § 87(2)(b) replied that he was not doing anything that would get him arrested again.

§ 87(2)(b) and § 87(2)(b)'s statements are largely consistent, with the exception of § 87(2)(b) stating that the officers did not mention anything about § 87(2)(b) speeding. The officers asked

§ 87(2)(b) if “that was a gun, [referring to something in § 87(2)(b) s pocket].” § 87(2)(b) told the officer it was a durag.

§ 87(2)(b) filmed two videos using his cell phone which captured the incident and are embedded above as 201703214\_20170804\_1200\_DM.mp4 and 201703214\_20170809\_1516.mp4 (Board Review 01 and 02). The 3 minute and 52 second video captures a portion of § 87(2)(b) s conversation with the officers. In the video, an officer asks § 87(2)(b) where he’s coming from and asks if he has any guns in the car. § 87(2)(b) tells the officer that he did not. An officer then asks § 87(2)(b) what was causing the bulge in his jacket and asks if there are any firearms. § 87(2)(b) tells the officer again that they do not have anything and § 87(2)(b) tells the officer that the bulge is caused by a durag. The second video begins with § 87(2)(b) telling an officer that he was doing twenty miles per hour. An officer replies that he thought that was unsafe for the side streets.

As per Lieutenant Campbell, around the incident date and time, in the vicinity of § 87(2)(b) in the Bronx, he saw a white car driving “a little fast” for the residential area. He proceeded to stop the car. Lieutenant Campbell approached the vehicle and addressed the passenger. The driver rolled down the passenger’s side window, at which point Lieutenant Campbell recognized § 87(2)(b) as the driver. Lieutenant Campbell told § 87(2)(b) that he was driving “a little fast” for the area. Lieutenant Campbell did not know if any other officer asked § 87(2)(b) or the passenger if they had any guns in the car. Lieutenant Campbell did not remember having asked the passenger if he had anything “on him” or in his pockets and he did not remember any other officer doing so. An officer asked for § 87(2)(b) s license and registration. § 87(2)(b) was not issued a summons because Lieutenant Campbell thought a verbal warning was sufficient and because he did not want to induce a negative interaction with § 87(2)(b) that might result in a CCRB complaint or other allegation.

At the conclusion of Lieutenant Campbell’s interview, he was shown the videos § 87(2)(b) provided. The video refreshed Lieutenant Campbell’s memory of having asked § 87(2)(b) about the bulge in his pocket.

Lieutenant Campbell’s memo book entry on December 7, 2016, notes that at 6:30 p.m. he stopped § 87(2)(b) at § 87(2)(b) (Board Review 08). It did not note the reason for the car stop, only that § 87(2)(b) was belligerent, filming and refused to open a window.

As per Police Officer Gomez, around the incident date and time, he and Lieutenant Campbell stopped a white vehicle with tinted windows. Police Officer Gomez did not know the reason the car was stopped because he was sitting in the rear of the unmarked car. Upon approaching the vehicle, Police Officer Gomez recognized the driver to be § 87(2)(b) Lieutenant Campbell and § 87(2)(b) had a conversation but that Police Officer Gomez did not remember the details. Police Officer Gomez did not, nor did he hear any other officer ask § 87(2)(b) if he had any guns or anything illegal in the car. Police Officer Gomez did not remember if there was anything in the car that was indicative of there being firearms in the car. Police Officer Gomez did not remember observing anything on § 87(2)(b) or § 87(2)(b) that suggested that they might have been armed. Police Officer Gomez did not remember hearing any other officer speak to the passenger and he did not remember hearing the passenger speak at all. § 87(2)(b) was asked for his license and

registration, which he eventually provided. Police Officer Gomez checked § 87(2)(b)'s information. § 87(2)(b) was warned, rather than issued a summons so that as Anti-Crime officers, their time was not being consumed with traffic summonses.

A warrant search audit conducted by IAB reported that Police Officer Gomez and Lieutenant Campbell conducted warrant searches for § 87(2)(b) on December 7, 2017, at 7:22 p.m. and again by Police Officer Gomez at 7:25 p.m. (Board Review 09).

§ 87(2)(g)  
[REDACTED]

**Allegation B-Abuse of Authority: Lieutenant Daniel Campbell questioned § 87(2)(b)**  
**Allegation C-Abuse of Authority: Lieutenant Daniel Campbell questioned § 87(2)(b)**

As discussed above it is undisputed that Lieutenant Campbell and Police Officer Gomez stopped § 87(2)(b) for a traffic infraction and that § 87(2)(b) and § 87(2)(b) were questioned as to whether or not there were any firearms in the car.

The court ruled in People v. Garcia, 20 N.Y. 3d 317 (2012) that a police officer may not ask the occupants of a lawfully stopped vehicle if they possess any weapons without founded suspicion for the inquiry (Board Review 11). In People v. Omowale, 83 A.D. 3d 614 (2011) the court noted that the defendant's earlier arrest history would only give rise to a "mere hunch," that he was armed at the time of the encounter in question (Board Review 16). The opinion stated that the People in this case did not offer any evidence that the defendant acted furtively, appeared to reach for a weapon or had any bulge under his clothing characteristic of a weapon, thereby suggesting that they may have considered these factors as potentially influencing an officer's founded or reasonable suspicion.

§ 87(2)(g)  
[REDACTED]

§ 87(4-b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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Squad:

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date